APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,420	11/20/2003	Brian Jeffrey Corcoran	TUC920030130US1	9652

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EXAMINER
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ART UNIT	PAPER NUMBER
2166	

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03/17/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>26 December 2007</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-15,17-22,24 and 26-40</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-15,17-22,24 and 26-40</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
         application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Reopening Prosecution

1.   In view of the Appeal Brief filed on 12/26/2007, PROSECUTION IS HEREBY

REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the

following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply

under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed

by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and

appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth

in 37 CFR 41.20 have been increased since they were previously paid, then appellant

must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by

signing below:

/Hosain T Alam/

Supervisory Patent Examiner, Art Unit 2166

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

3.   Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

4.   Claim 1 recites the limitation "the data structure" in line 9. There is insufficient

antecedent basis for this limitation in the claim. It is unclear whether "the data structure"

refers to "self-descriptive binary data structure" recited in the preamble,

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by
> another filed in the United States before the invention by the applicant for patent or (2) a patent
> granted on an application for patent by another filed in the United States before the invention by the
> applicant for patent, except that an international application filed under the treaty defined in section
> 351(a) shall have the effects for purposes of this subsection of an application filed in the United States
> only if the international application designated the United States and was published under Article 21(2)
> of such treaty in the English language.

6.   **Claims 1-15, 17-22, 24, and 26-40** are rejected under 35 U.S.C. 102(e) as being

anticipated by Zimmer et al. **(US 2003/0120909 A1)**, hereinafter "**Zimmer**".

As per claim 1, Zimmer teaches a storage medium comprising:

- "a plurality of data segments, each of the plurality of data segments comprising a segment header and a data field, the segment header descriptive of the corresponding data segment" at Fig. 2 and [0009]-[0026];

(Zimmer teaches the firmware system 40 comprises plurality data segments 44(a), 44(b), each segment comprising a header 68)

- "a target data set within the data field" at Fig. 2

(Zimmer teaches firmware volume 88 comprises data to be loaded into RAM)

- "a data structure descriptor descriptive of the data structure, the data structure descriptor identifying the location of the target data set within the data field" at Fig. 2, element 42 and [0015];

(Zimmer teaches the VTF files provides mechanism to locate code and data and to bootstrap other firmware modules 44(a)-44(b) residing within the firmware volume 88)

As per claim 2, Zimmer teaches the medium of claim 1, further comprising : "a customizable directory descriptor, the customizable descriptor configured to provide a directory of the data stored in each of the data field within the data structure" at Fig. 2, element 70 and [0019].

As per **claim 3**, Zimmer teaches the medium of claim 2, wherein "the target data set comprises a bootstrap executable, the bootstrap executable configured to reference the customizable directory descriptor and to identify a location of a second target data set within the data structure using the customizable directory descriptor" [0011]-[0015].

As per **claim 4**, Zimmer teaches the medium of claim 3, wherein the bootstrap executable is further configured to access the second target data set within the data structure" at [0011]-[0015].

As per **claim 5**, Zimmer teaches the medium of claim 1, further comprising: "a data structure version descriptor configured to indicate a version of the data structure" at Fig. 2 and [0017]-[0018].

As per **claim 6**, Zimmer teaches the medium of claim 1, further comprising a data structure type descriptor configure to indicate a name of the plurality of data segments within the data structure" at Fig. 2 and [0016]-[0018].

As per **claim 7**, Zimmer teaches the medium of claim 1, further comprising: "a data structure type descriptor configured to indicate a type of the data structure" at Fig. 2 and [0023]-[0024].

As per claim 8, Zimmer teaches the medium of claim 1, further comprising: "a data structure count descriptor configured to indicate a number of the plurality of data segments within the data structure" at Fig. 2 and [0023]-[0024].

As per claim 9, Zimmer teaches the medium of claim 1, wherein the target data set is an executable" at Fig. 2 and [0018].

As per claim 10, Zimmer teaches the medium of claim 1, wherein "the target data set is a code image" at Fig. 2.

As per claim 11, Zimmer teaches the medium of claim 1, wherein "one of the plurality of data segment is an alignment data segment configured to align the size of the data structure for at least one of error detection and correction" at Fig. 2 and [0017].

As per claim 12, Zimmer teaches the medium of claim 1, wherein "the data segment header comprises a flag field configured to store a flag, the flag descriptive of the data stored in the data field" at Fig. 2.

As per claim 13, Zimmer teaches a system comprising:
- "a communication channel" at Fig.1, element 30;

- "a source communication device connected to the communication channel and configure to transmit a self-descriptive binary data structure" at Fig. 1, element 26, 30, 18;

- "a target communication device connected to the source communication device via the communication channel and configured to receive the self-descriptive binary data structure from the source communication device" at Fig. 1, element 18 and [0011].

- "wherein the self-descriptive binary data structure comprises: a plurality of data segments, each of the plurality of data segments comprising a segment header and a data field, the segment header descriptive of the corresponding data segment" at Fig. 2 and [0009]-[0026];

- "a target data set within the data field" at Fig. 2 element 88;

- "a data structure descriptor descriptive of the data structure, the data structure descriptor configured to identify the location of the target data set within the data field" at Fig. 2 element 42 and [0015];

- "wherein the target communication device is configured to process an executable, the executable stored in the self-descriptive binary data structure"

    As per claim 14, Zimmer teaches the system of claim 13, wherein "the source communication device is further configured to generate the self-descriptive binary data structure" at [0021].

As per claim **15**, Zimmer teaches the system of claim 14, wherein "the source communication device is further configured to generate the self-descriptive binary data structure from a non-binary data structure" at [0021]

As per claim **17**, Zimmer teaches the system of claim 13, wherein "the executable comprises a bootstrap executable, the bootstrap executable configured to access a code image within the data structure" at [0011].

Claims 18-22, 24, 26-40 recite similar limitations as discussed above and therefore are rejected by the same reasons.

Response to Arguments

7.   Applicant's arguments with respect to claims 1-15, 17-22, 24, 26-40 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully

consider the references in entirety as potentially teaching all or part of the claimed

invention, as well as the context of the passage as taught by the prior art or disclosed

by the Examiner.

The prior art made of record, listed on form PTO-892, and not relied upon, if any,

is considered pertinent to applicant's disclosure.

If a reference indicated as being mailed on PTO-FORM 892 has not been

enclosed in this action, please contact Lisa Craney whose telephone number is **(571)

272-3574** for faster service.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Khanh B. Pham whose telephone number is (571) 272-

4116. The examiner can normally be reached on Monday through Friday 7:30am to

4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Hosain Alam can be reached on (571) 272-3978. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Khanh B. Pham/
Primary Examiner
Art Unit 2166

March 10, 2008

/Hosain T Alam/
Supervisory Patent Examiner, Art Unit 2166